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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 MONTE C. HOISINGTON,

10 Plaintiff,

v.

11 ROBIN WILLIAMS, et al.,

12 Defendants.

13 No. 09-5630 RJB/KLS

14 ORDER DENYING DEFENDANTS'
15 MOTION TO STAY DISCOVERY

16 Before the Court is Defendants' motion to stay discovery of this matter pending
17 submission of a dispositive motion. Dkt. 20. For the reasons stated below, the Court finds that
18 the motion should be denied.

19 DISCUSSION

20 Plaintiff served defendants with a motion to request class action certification (Dkt. 19) on
21 January 26, 2010 and discovery requests on February 1, 2010. Dkt. 20, p. 1. The court issued a
22 Pretrial Scheduling Order on January 11, 2010. Dkt. 18. Defendants propose to file a
23 dispositive motion within thirty to sixty days, in which they will raise the defense of qualified
24 immunity. Dkt. 20, p. 2. Defendants assert that they should not have to respond to discovery
25 requests and procedural motions until this court rules on the issue of qualified immunity and
26 whether the suit against Defendants will proceed. *Id.* Defendants filed their response to
Plaintiff's motion to request class action certification. Dkt. 25.

ORDER GRANTING MOTION TO STAY DISCOVERY - 1

1 The court has broad discretionary powers to control discovery. *Little v. City of Seattle*,
2 863 F.2d 681, 685 (9th Cir. 1988). Upon showing of good cause, the court may deny or limit
3 discovery. Fed. R. Civ. P. 26(c). A court may relieve a party of the burdens of discovery while
4 a dispositive motion is pending. *DiMartini v. Ferrin*, 889 F.2d 922 (9th Cir. 1989), amended at
5 906 F.2d 465 (9th Cir. 1990) *Rae v. Union Bank*, 725 F.2d 478 (9th Cir. 1984). When
6 government officials raise the issue of qualified immunity, discovery should not proceed until
7 this threshold issue is resolved by the court. *Harlow v. Fitzgerald*, 457 U.S. 800, 818, 102 S. Ct.
8 2727, 2738 (1982); *Anderson v. Creighton*, 483 U.S. 635 646 n. 6, 107 S. Ct. 3034, 3042 n. 6
9 (1987), *DiMartini v. Ferrin*, supra, 889 F.2d at 926. The *Harlow* qualified immunity standard is
10 meant to protect public officials from the broad-ranging discovery that can be peculiarly
11 disruptive of effective government. *Harlow*, 457 U.S. at 817.

12 The *Harlow* ruling and its discussion of discovery restrictions was directed to the
13 question of damages, not equitable relief. *Harlow*, 457 U.S. at 819 n. 34, 102 S.Ct. at 2739 n.
14 34. See *Hoochli v. Ariyoshi*, 741 F.2d 1169, 1175-76 (9th Cir.1984). As the Fourth Circuit has
15 noted, “[a] present declaration of immunity from damage claims cannot avoid the diversion of
16 [the officials'] attention from other official duties which the litigation [of the equitable claims]
17 will occasion.” *Bever v. Gilbertson*, 724 F.2d 1083, 1087 (4th Cir.1984). Thus to the extent
18 Plaintiff seeks discovery relating to his claims for equitable relief, defendants' request for a stay
19 of discovery is without merit. As a practical matter, such a stay would be meaningful only if the
20 damages discovery was significantly different from the discovery directed to the equitable
21 claims.

1 Accordingly, the court finds that the requested stay should not be granted. However, it
2 will defer consideration of Plaintiff's motion requesting class action certification until after the
3 court has ruled on Defendants' motion to dismiss raising the issue of qualified immunity.

4 Accordingly, it is **ORDERED**:

- 5 (1) Defendants shall file a dispositive motion **on or before April 30, 2010**.
6 (2) Defendants' motion for stay of discovery (Dkt. 20) is **DENIED**.
7 (3) Plaintiff's motion for class certification (Dkt. 19) is **renoted for June 11, 2010**.
8 (4) The Clerk shall send a copy of this Order to Plaintiff and counsel for Defendants.

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10 DATED this 15th day of March, 2010.

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14 Karen L. Strombom
United States Magistrate Judge
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